

Message Text

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FRB-02 INR-10 NSAE-00 RSC-01 TRSE-00 XMB-07 OPIC-12

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TO AMEMBASSY TOKYO

INFO USMISSION OECD PARIS BY POUCH

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EO 11652 NA

TAGS EGEN, EFIN, ETRD, JA

SUBJ NEW GOJ INVESTMENT LIBERALIZATION POLICY

REF A) TOKYO 9908; B) TOKYO 8516; C) MAY 7 TALKING PAPER,
"JAPAN'S RESTRICTIONS ON INWARD INVESTMENT"

APPRECIATE EMBASSY'S DETAILED RQPNSE TO QUESTIONS RAISED IN
REF C. FOR FURTHER CLARIFICATION, REQUEST EMBASSY ANSWER ADDITIONAL
QUESTIONS BELOW.

1. REF A, PARA 2. WHAT IS EMBASSY'S ASSESSMENT OF
WATANABE'S STATEMENT THAT "THERE WOULD, OF COURSE, BE SOME TIME
LAG BETWEEN ADOPTION OF (100 PERCENT) PRINCIPLE AND IMPLEMENTATION
OF MODES OF OPERATION UNDER NEW PRINCIPLE?" DOES THIS STATEMENT
MEAN, IN EFFECT, THAT DELAYS MAY BE ANTICIPATED IN APPROVING
APPLICATIONS FOR INVESTMENT IN NEWLY LIBERALIZED AREAS?

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2. REF A, PARA 3A. PLEASE IDENTIFY THE PRECISE STEPS REQUIRED OF A FOREIGNER WISHING GOJ APPROVAL OF AN INVESTMENT ELIGIBLE FOR AUTOMATIC APPROVAL, AS WELL AS STEPS TAKEN BY GOJ IN CONSIDERING INVESTMENT APPLICATIONS ELIGIBLE FOR AUTOMATIC APPROVAL. WHAT IS "CURRENT PRACTICE" AND HOW DOES NEW "VERY SIMILAR" PROCEDURE DIFFER FROM "CURRENT PRACTICE"?

3. REF A, PARAS 3A AND 3D; REF B, PARA 4. REF B STATES THAT APPROVAL OF A FOREIGN "TAKEOVER" OF AN EXISTING JAPANESE FIRM REQUIRES PROOF THAT THE STOCK ACQUISITION HAS RECEIVED APPROVAL OF FIRM'S BOARD OF DIRECTORS. REF A SEEMS TO IMPLY THAT BOARD OF DIRECTORS' APPROVAL IS REQUIRED FOR ALL STOCK PURCHASES BY FOREIGNERS, NOT JUST WHEN THE PROPOSED PURCHASE IS DEEMED TO CONSTITUTE A TAKEOVER. PLEASE COMMENT. PERHAPS THE KEY IS DEFINITION OF "TAKEOVER", WHICH JAPANESE HAD NOT ELABORATED AS OF DATE OF REF B.

4. REF A, PARA 3B. ARE THERE ANY OTHER CONDITIONS REQUIRED FOR AUTOMATIC APPROVAL OF INVESTMENTS LIMITED TO 50 PERCENT IN NEW COMPANIES? ARE THE CONDITIONS THE SAME AS SET OUT IN GOJ SUBMISSION TO OECD CONTAINED IN OECD DOCUMENT TIR (70)4, OCTOBER 16, 1970 PP. 53-54 (COPY BEING POUCHED)? IS EMBASSY CERTAIN THAT FOURTH CONDITION (SPECIFIC LIMITATIONS ON PRODUCTION AND CONDUCT OF ENTERPRISE) LISTED REF C, PAGE 5 IS APPLICABLE, FOR WE NOTE THAT IT IS NOT AMONG CONDITIONS LISTED IN TIR (70)4?

5. REF A, PARA 3C. REF A REPORTS WATANABE STATING THAT "GOJ WOULD REQUIRE ASSURANCE THAT NEW COMPANY WOULD NOT IMMEDIATELY MOVE INTO UNRELATED LINES OR MERGE WITH AN EXISTING JAPANESE FIRM". IS IT EMBASSY'S UNDERSTANDING THAT SUCH ASSURANCE WOULD NOT BE VIOLATED IF NEW COMPANY WERE TO MOVE INTO "UNRELATED LINES" AND/OR "MERGE" WITH EXISTING FIRM AFTER 45 DAYS; 90 DAYS? DO JAPANESE DEFINE "MERGE" FOR THIS PURPOSE? IS THERE ANY LIMITATION ON EQUITY CONTRIBUTIONS IN KIND (E.G., FACTORIES) BY JAPANESE INVESTORS?

6. REF A, PARA 3C. REF A NOTES THAT "FOR EQUITY INVESTMENT IN EXISTING FIRMS, TWO CONDITIONS WOULD BE APPROVAL OF BOARD OF DIRECTORS AND CONSIDERATION OF POSSIBLE DETRIMENTAL EFFECT ON UNCLASSIFIED

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JAPANESE ECONOMY". ARE THESE THE ONLY CONDITIONS THAT WILL BE APPLIED IN REGARD TO INVESTMENT IN EXISTING FIRMS? SEE ALSO PARAGRAPH 3 ABOVE.

7. SINCE COMMERCE MAY WISH TO PUBLICIZE TO US BUSINESS COMMUNITY THE INFORMATION CONTAINED IN EMBASSY'S REPORTS, REQUEST EMBASSY ADVISE WHICH PARTS, IF ANY, OF REFTELS AND REPLY TO THIS MESSAGE SHOULD NOT BE MADE PUBLIC.

8. EMBASSY REQUESTED ALSO TO FORWARD TO COMMERCE (C/O OFFICE OF INTERNATIONAL TRADE POLICY, BIC) ASAP TWO COPIES OF JAPANESE COMMERCIAL LAW REFERRED TO PARA 3A OF REF A, TWO COPIES OF INDUSTRIAL CLASSIFICATION LIST REFERRED TO PARA 3F OF REF A, AND ONE COPY OF BANK OF TOKYO'S RECENT PUBLICATION ENTITLED "HOW TO SET UP ENTERPRISES IN JAPAN" MENTIONED IN ASAHI EVENING NEWS, JULY 31.

ROGERS

NOTE BY OC/T: POUCHED OECD PARIS.

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